

1 BILL NO. G-88- 05-21

2
3 GENERAL ORDINANCE NO. G- 18-88

4 AN ORDINANCE AMENDMENT CHAPTER 33 OF THE
5 MUNICIPAL CODE OF THE CITY OF FORT WAYNE

6 WHEREAS, the City of Fort Wayne has adopted Chapter 33
7 of the Municipal Code regarding the use of buildings,
structures and land with the City, and,

8 WHEREAS, a proposed amendment as herein set out has
9 been made.

10 NOW THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF
THE CITY OF FORT WAYNE, INDIANA:

11 SECTION 1. Article XI Section 33.53 through 33.58
12 inclusive of Chapter 33 of the Municipal Code is hereby
deleted, and replaced by the following:

13 Section 33-53 Creation of District

14 The River Greenway Overlay District, which shall also be
15 referred to as the RGO, is hereby created as an overlay
16 district to be applied to lands abutting the Maumee, St.
17 Joseph, St. Marys Rivers, and the Spy Run Creek, and other
creeks and tributaries as may, from time to time, be
designated by the Plan Commission. The RGO District
boundaries shall be shown on the zoning map as an overlay,
so that the underlying zoning district will remain legible.

18
19 Section 33-54 District Boundaries

20 The boundaries of this overlay district shall be 100 feet
21 from the riverbank. "Riverbank" shall be defined as the
22 landward edge of the "floodway area" as determined by IDNR
and/or FEMA, on both sides of the river or creek. If any
portion of a lot or parcel is within that defined boundary,
the entire lot or parcel shall therefore be included as if
it were entirely contained within that boundary.

23
24 Section 33-55 Purpose and Intent

25 The River Greenway Overlay District is of special and
26 substantial public interest because it is a visual and
27 environmental resource affecting substantial portions of the
City of Fort Wayne, including many residential
neighborhoods, business and industrial areas, and parks. It
is the general purpose and intent of this ordinance to
28 provide for maximum public benefit from any future
development of these areas through a sharing of river
orientation, with emphasis on the opportunity for enjoyment
29 of river vistas, continuity of river greenway paths, and
access to the rivers and banks to the maximum number of
30 citizens. It is further the purpose of the ordinance to
eliminate or minimize adverse environmental impacts, and to
31 improve scenic and aesthetic controls.

32 The River Greenway is the focus for community improvements,
from flood control to park and recreation areas, including
revitalization and economic development areas that are
complementary to the River Greenway Plan.

Section 33-56 Site Review and Approval

No person or entity shall make a change as defined herein, before such change has received written approval, and permits have been issued, except for "emergency work" as defined herein.

Prior to instituting any change in the RGO District, a person or entity shall submit a request for approval of that change to the City Plan Commission. No permit for construction, change, or alteration shall be issued by the Division of Community Development & Planning until written approvals are received. "Change" shall include but not be limited to the following:

- a) new construction;
- b) enlargement of, or additions to existing structures;
- c) signs, including new signage;
- d) new parking areas, or enlargements of existing areas;
- e) grading of land, including removal of live trees or other vegetation.

Emergency work is defined as work undertaken because of imminent danger of personal injury and/or substantial property damage. Work, which is "emergency work" may be commenced without appropriate approvals and permits, only providing that applications for such approval and/or permits must be filed within three (3) working days after the commencement of such work.

Section 33-57 River Greenway Committee

The Plan Commission shall establish a River Greenway Committee, which shall include three members of the Plan Commission to be appointed by the Plan Commission, two members of the Board of Park Commissioners to be appointed by the Board of Park Commissioners, one citizen representative with an interest in the River Greenway Consortium Inc. to be appointed by the Mayor, and one citizen representative who is a member of the Maumee River Basin Commission, to be appointed by the Maumee River Basin Commission. Staff liaison from both the Fort Wayne Parks & Recreation Department and the Division of Community Development & Planning shall be available to the Committee. The Committee shall choose its own chairman, and shall adopt such rules as it requires for its own governance.

The duties and powers of the River Greenway Committee shall be those described in succeeding Sections of this Ordinance.

Section 33-58 Determination of Significant Impact

- 1) Applications required by Section 33-56 shall be made to the Fort Wayne Plan Commission on prescribed forms, accompanied by applicable fees (if any), and such site plans as may be required.
- 2) the application shall be forwarded to the River Greenway Committee, which shall review and recommend either:
 - i) that the proposed change is not of a scope and/or scale that would cause an impact on the RGO, in which case the provisions of this ordinance do not apply,

or:

11) that the proposed change would be of a scope and/or scale to have an impact on the RGO, in which case the River Greenway Committee shall:

review, evaluate, and make recommendations regarding the development plan with respect to its compatibility with the River Greenway Master Plan of the Fort Wayne Parks Department (hereinafter referred to as the Plan), and any other plan duly established that has bearing on the River Greenway District. This evaluation shall consider all active and passive uses mentioned in the Plan, as well as any flood control measures, bank conservation treatments, and water quality controls or improvements which might be needed to support the Plan. The evaluation shall take into account any significant differences in the five corridor areas described in the Plan, and shall appropriately respond to the general concept of the Plan which holds that as the rivers approach the center of the city, activities provided for are likely to be more intense or more highly developed and more 'built' projects are likely to occur.

- 3) Following initial evaluation of the application by the River Greenway Committee, the application shall be forwarded to the Plan Commission for decision on whether development plan review is required.

Section 33-59 Development Plan Review

A) Primary Development Plan

- 1) If an application is determined to be of a scope or scale to impact the RGO, the applicant shall file a development plan application with the Plan Commission on prescribed forms. The application shall be accompanied by the applicable review fee (if any), a survey performed by a licensed surveyor, and twenty (20) copies of the proposed site plan, which shall include the following:
- i) date, scale and north point;
 - ii) name and address of the engineer or architect;
 - iii) name and address of the developer;
 - iv) location, size and use of all structures, existing or proposed;
 - v) proposed ingress/egress points and parking areas;
 - vi) pedestrian circulation details;
 - vii) proposed site screening and landscaping;
 - viii) lot lines and dimensions;
 - ix) references to abutting land uses or parcels.
- 2) Applications shall be submitted in compliance with established filing deadlines, and shall not be accepted unless complete.
- 3) Review of the submittal shall be conducted following the general procedures established for primary development plans. Reviewing departments shall verify the plan's compliance with established city standards and practices.
- 4) The Plan Commission shall conduct a Public Hearing on the proposed primary development plan. Notice of such hearing shall be the same notice as is required under the Planning Act of the State of Indiana.
- 5) Following the hearing the Plan Commission shall forward

the primary development plan to the River Greenway Committee for evaluation and recommendation. Such evaluation shall be according to Section 2 (ii) of Section 33-58.

- 6) After receiving the River Greenway Committee evaluation and recommendation, the Plan Commission shall render a decision on the primary development plan, and notify the applicant in writing of the same.
- 7) If the Plan Commission approves the primary development plan, or approves the plan contingent upon certain modifications, the secondary development plan may be submitted according to the established filing deadlines.

B) Secondary Development Plan

At the applicant's discretion, the requirements for secondary approval may be incorporated along with the primary development plan into one submittal and the application form so marked. Secondary approval does not require a public hearing, but will otherwise follow the same review procedures and criteria as a primary development plan.

- 1) Secondary development plans shall, in addition to the requirements of the primary, include the following:
 - i) name of development;
 - ii) certification by a land surveyor, engineer or architect, registered by the State of Indiana;
 - iii) existing contours, at two foot intervals, with elevations of finished grade, and storm water runoff details.
- 2) Review of the submittal shall be conducted following established procedures for a secondary development plan. Reviewing departments shall verify the plans compliance with established city standards and practices.
- 3) The River Greenway Committee shall also review the submittal to determine its compliances with its established criteria.
- 4) The Plan Commission shall render a decision on the merits of the application, and shall advise the applicant of its decision in writing within 30 days of that decision. Such decision shall be considered final, and not subject to amendment.

Section 33-60 Impact on Rezoning

Applicants must have written RGO approval prior to issuance of an Improvement Location Permit or Certificate of Occupancy. Likewise, no petition for rezoning, or submittal of a separate development plan will be accepted until and unless written RGO approvals are included with such application or petition.

After such written approvals are received, review shall proceed as with any other petition or application.

Section 33-61 Authority to Proceed

Final authority to proceed with any change in the RGO District shall be deemed effective at such time as written

1 approval is received from the Plan Commission (if
2 applicable), and an Improvement Location Permit or
3 Certificate of Occupancy is issued by the Division of
4 Community Development & Planning.

5 Section 33-62 Amendments to Development Plan Approval

6 All requests for amendment to a previously approved plan
7 must follow these established procedures.

8 Section 33-63 Appeals from Plan Commission Decisions

9 The decision of the Plan Commission is subject to review by
10 certiorari. Aggrieved parties must file such petitions to
11 the court within thirty (30) days after the date of a final
12 decision of the Plan Commission.

13 Section 33-64 Severability

14 If any section, clause, provision, or portion of this
15 Ordinance is adjudged unconstitutional or invalid by a court
16 of complete jurisdiction, the remainder of this Ordinance
17 shall not be affected thereby.

18 SECTION 2. All other items and provisions of
19 Chapter 33 of the Municipal Code are hereby ratified and
20 affirmed.

21 SECTION 3. This Ordinance shall be in full force
22 and effect from and after its passage and signing by the
23 Mayor.

24 Janet H. Bradbury
25 Councilmember

26 APPROVED AS TO FORM
27 AND LEGALITY

28 J. Timothy McCauley
29 J. Timothy McCauley, City Attorney

Read the first time in full and on motion by Bradbury, seconded by Redd, and duly adopted, read the second time by title and referred to the Committee on Legislation (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Council Conference Room 128, City-County Building, Fort Wayne, Indiana, on _____, the _____ day of _____, 19____, at _____ o'clock _____ M., E.S.T.

DATE: 5-24-88

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Read the third time in full and on motion by Redd, seconded by Levin, and duly adopted, placed on its passage. PASSED ~~LOST~~ by the following vote:

	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAINED</u>	<u>ABSENT</u>	<u>TO-WIT</u>
<u>TOTAL VOTES</u>	<u>6</u>	<u>1</u>		<u>2</u>	
<u>BRADBURY</u>				<u>✓</u>	
<u>BURNS</u>		<u>✓</u>			
<u>GIAQUINTA</u>				<u>✓</u>	
<u>HENRY</u>	<u>✓</u>				
<u>LONG</u>	<u>✓</u>				
<u>REDD</u>	<u>✓</u>				
<u>SCHMIDT</u>	<u>✓</u>				
<u>STIER</u>	<u>✓</u>				
<u>TALARICO</u>	<u>✓</u>				

DATE: 7-12-88

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as (ANNEXATION) (APPROPRIATION) (GENERAL) (SPECIAL) (ZONING MAP) ORDINANCE RESOLUTION NO. B-18-88 on the 12th day of July, 1988,

ATTEST:

SEAL

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Thomas E. Henry
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 13th day of July, 1988, at the hour of 11:00 o'clock A. M., E.S.T.

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Approved and signed by me this 14th day of July, 1988, at the hour of 2:50 o'clock P. M., E.S.T.

P. Helmke
PAUL HELMKE, MAYOR

#346

ORIGINAL

ORIGINAL

DIGEST SHEET

G-88-05-21

TITLE OF ORDINANCE River Greenway Ordinance

DEPARTMENT REQUESTING ORDINANCE Land Use Management - CD&P

SYNOPSIS OF ORDINANCE This Ordinance provides for a systematic approach to review of developments that are proposed in the River Greenway.

EFFECT OF PASSAGE Improve the overall development of the River Greenway.

EFFECT OF NON-PASSAGE Existing ordinance remains in effect.

MONEY INVOLVED (Direct Costs, Expenditures, Savings) _____

(ASSIGN TO COMMITTEE (J.N.) _____

*Handed
for info*

Vote ~~11/12~~

BILL NO. G-88-05-21

REPORT OF THE COMMITTEE ON REGULATIONS

WE, YOUR COMMITTEE ON REGULATIONS TO WHOM WAS
REFERRED AN (ORDINANCE) (~~RESOLUTION~~) AMENDMENT CHAPTER

33 OF THE MUNICIPAL CODE OF THE CITY OF FORT WAYNE
(RIVER GREENWAY)

HAVE HAD SAID (ORDINANCE) (~~RESOLUTION~~) UNDER CONSIDERATION
AND BEG LEAVE TO REPORT BACK TO THE COMMON COUNCIL THAT SAID
(ORDINANCE) (~~RESOLUTION~~) No Pass

YES

NO

Janet G. Bradbury

JANET G. BRADBURY
CHAIRPERSON

Mark E. GiaQuinta

MARK E. GIAQUINTA
VICE CHAIRMAN

Charles B. Redd

CHARLES B. REDD

David C. Long

DAVID C. LONG

Paul M. Burns

PAUL M. BURNS

CONCURRED IN

7-12-88

SEK
Sandra E. Kennedy
City Clerk



MEMORANDUM

TO: Councilperson Janet Bradbury, Chairperson,
Regulations Committee

FROM: Greg Purcell, Director, Community Development
and Planning

SUBJECT: Utility Easement Vacation Petition G-88-04-14

DATE: June 10, 1988

This is to follow up on your request to review the above mentioned case which was the subject of a News-Sentinel editorial on June 1, 1988, a copy of which is attached. As you will recall, this was a petition to vacate a 7' utility easement on the north property line of the property at 6103 Beaumont Drive for Mr. John Diamond.

In large measure, this entire matter was the result of miscommunication. Mr. Diamond's petition to vacate the easement was recommended for denial by both the staff and the Plan Commission. Denial of the petition is clearly appropriate given the fact that Indiana Michigan Power Company (I&M) has overhead wires in the easement which are necessary to serve other customers. In retrospect, Mr. Diamond should have never filed a petition to vacate the easement. All that is necessary in this case is a letter from the utility company (I&M) authorizing an encroachment for the garage which was issued on April 22, 1988 (copy attached).

Unfortunately, CD&P staff did not learn of the encroachment authorization until after the public hearing and business meeting of the Plan Commission. Mr. Gary Baeten did communicate this information to Mrs. Diamond, but our records are not clear if this was before the City Council hearing on this matter. We have subsequently communicated this information to Mr. Diamond via telephone and letter (copy attached). At this point, there is nothing standing in the way of issuing an Improvement Location Permit to Mr. Diamond.

I regret I was not in attendance at the Council meeting when Mr. Diamond addressed the Council since it may have been possible to resolve the matter at that time. While I generally attend most Council meetings, I do take the night off if the items from CD&P seem fairly routine. If my absence contributed to the delay in resolving this matter and the subsequent negative editorial, I offer an apology to you and the other members of the City Council.

To avoid this problem in the future, the Chief of the Land Use Planning Section, Mr. Gary Baeten, and I have instructed the staff to question petitioners in more detail and advise them to seek encroachment authorizations where appropriate. In those cases where it is feasible to allow construction in an easement, and the utility has granted an encroachment, we will issue an Improvement Location Permit. It should be noted that in these instances, the property owner will retain some additional risks and responsibilities as are noted in the third paragraph of the I&M letter to Mr. Diamond dated April 22, 1988.

Should you have any further questions with regard to this matter, please do not hesitate to contact me.

GP/sjh

Attachment I: News-Sentinel Editorial

II: I&M letter dated April 22, 1988

III: Letter to Mr. Diamond dated June 9, 1988

cc: All City Council Members

Editorials

Joseph A. Weiler Executive Editor
Richard Battin Managing Editor
T. Craig Ladwig Associate Editor

Do you have to be a hero to get your garage built?

IN THE northwest quadrant of Fort Wayne lives a man who wants to enlarge his garage. The naive might think his chief concerns would be hiring a contractor and paying the bills. But those are trivial issues compared with the web of complications the City Planning Commission and the City Council have created for this would-be garage-builder.

Here's his story. We'll call our hero Mr. D. He came to our attention at the May 24 council meeting, where a public hearing was held on his request for vacation of a utility easement at the rear of his property.

Mr. D explained to council that he has more cars than garage space. He would like to build an addition to his garage, so his third car won't have to be parked in his driveway. He found that he would need to build on property that is dedicated as an electric utility easement.



ASCENE FROM the 1990's

Why a merit board is nee

In response to the May 21 Health Merit Board article by Kevin Leininger, I would like

Letters to the editor

Hi
 fel
 wi

‘The plan commission’s flexibility brings up what may be the most telling indictment against the City Council: It didn’t have a full understanding of the situation or the laws it was dealing with.’

sion’s primary concern was that the city, having granted the vacation, might be held liable by Indiana Michigan Power or a property-owner in the event of a future accident at the site.

Mr. D came to the council hearing armed with a letter from Indiana Michigan Power granting him permission to encroach on its easement. Mr. D had explained his plans to IMP, and the company’s engineers were satisfied that the addition he planned would not interfere with IMP’s ability to service the power lines above the easement. To the uninitiated, it might have seemed that IMP’s permission would be the deciding factor.

But it made little impact on council. Mr. D endured patronizing lectures about the importance of utility easements and argumentative questions about why he hadn’t provided the IMP letter to the plan commission sooner. In spite of IMP’s permission, one member with a grandiose view of council’s mission told Mr. D: “We don’t want to stop you from building your garage, but we have a responsibility to make sure that electric utilities are maintained and that you are not in danger.”

In the end, council decided to delay the request until next Tuesday, so council members can visit the site and second-guess the IMP engineers. And it now appears that council will decide on Tuesday to deny the vacation request.

Fortunately, there may still be a happy ending for Mr. D’s garage plans. A plan commission official told us this week that the commission would be inclined to give Mr. D the necessary building permit since he had received permission from IMP to encroach on the easement. The easement need not be vacated by the city; it would continue to exist, but Mr. D could build on it anyway. The liability issues would then involve only Mr. D and IMP.

Plan commission’s flexibility brings up what may be the most telling indictment against council: It didn’t have a full understanding of the situation or the laws it was dealing with.

Council might be well justified in denying Mr. D’s vacation request to protect the city from future liability. But comments at the public hearing indicated that council may not clearly know the difference between a vacation and an encroachment and certainly had not communicated adequately with the plan commission. If it had, council members would have known that the commission was agreeable to an encroachment, and they could have explained to Mr. D that the vacation was unnecessary for his building plans.

Instead they treated a citizen who wants to improve his property as if he were an uninformed supplicant. But if council members themselves don’t understand the matters coming before them, is it any wonder common citizens don’t, either?

Mr. D followed established procedures. He applied to the plan commission for vacation of the easement (that is, total reversion to Mr. D’s use). The plan commission noted that electrical lines would be running over or near the expanded garage and therefore recommended against the vacation. The commis-

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AFTERWORDS

TWO STRIKES

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The IS

Indiana Michigan
Power Company
One Summit Square
P.O. Box 60
Fort Wayne, IN 46801
219 425 2111



Mr. John Diamond
6020 Beaumont Drive
Fort Wayne, Indiana 46825

April 22, 1988

Re: 50' x 4.5' encroachment on 7' platted utility easement, Lot 89,
North Sherwood Terrace Addition

Dear Mr. Diamond:

This is in response to your request to install a new addition near our electric lines on the aforementioned property. Our engineers have reviewed the plans and have determined that it will not interfere with our existing electrical lines. The height of the new addition should not exceed the height of the existing structure.

Our lines are built in accordance with the National Electric Safety Code and our own AEP standards. Indiana Michigan Power Company will consent to this construction as long as it is constructed according to the provided plans and that it complies with all appropriate codes. Special care must be taken when working near utilities, and we request that a minimum clearance of 10 feet from our lines be maintained during construction.

While your proposal appears to meet the NESC and our own requirements, we believe it is our responsibility to inform you that under stormy and adverse weather conditions, your proposal may constitute a hazard to our lines and facilities. Compliance with these requirements would not serve to excuse any responsibility you may have for loss or injury occasioned by the existence of your facilities near our electric lines.

If you have any questions concerning this matter, please feel free to contact us at any time.

Sincerely,

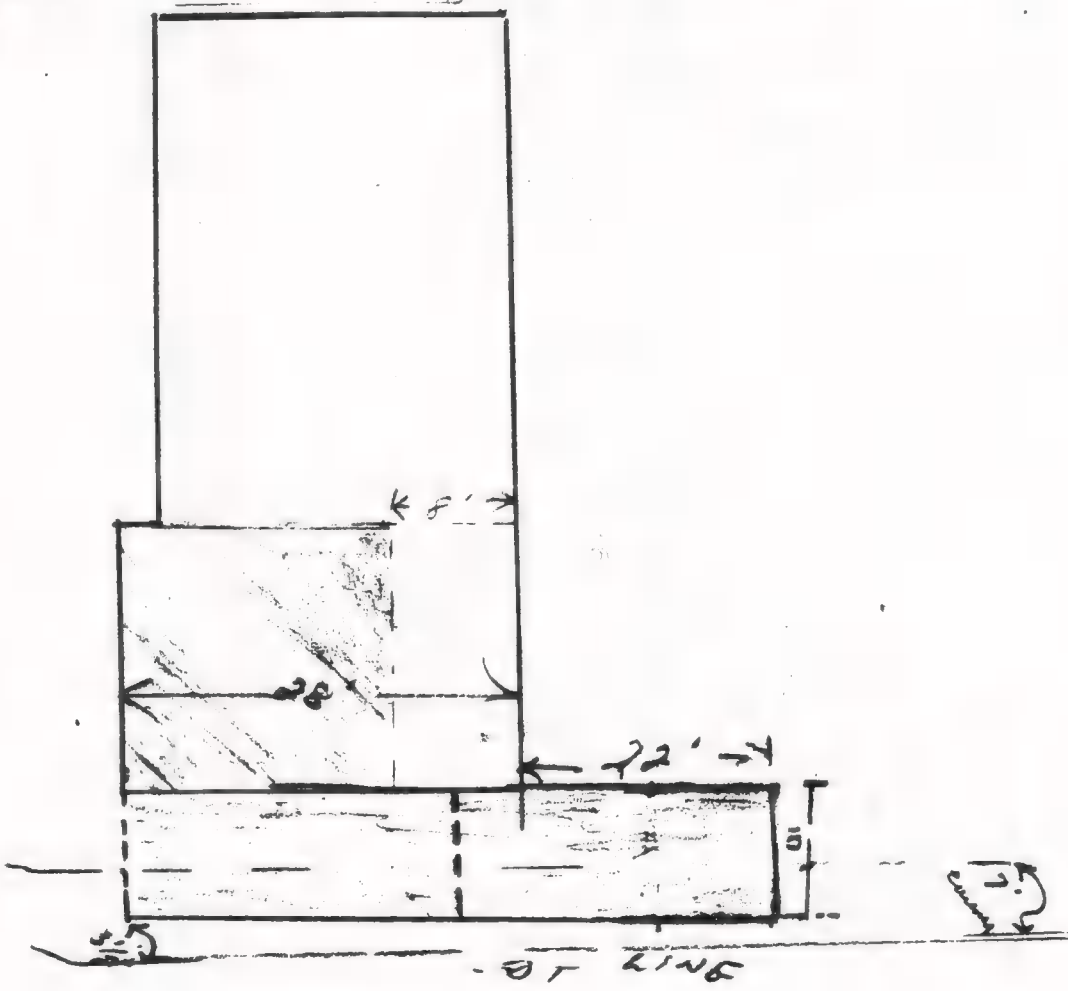
A handwritten signature in cursive script, appearing to read 'Karen A. Osterholt', is written over the typed name.

Karen A. Osterholt
Right-of-Way Agent

KA0/kaos

c: C. Rhoades
T. Durnell

A large handwritten signature, appearing to read 'John Diamond', is written in cursive. Below the signature, the number '484 2898' is handwritten in a similar style.



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45
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THE CITY OF FORT WAYNE

June 9, 1988

Mr. John Diamond
6020 Beaumont Drive
Fort Wayne, IN 46825

Dear Mr. Diamond:

I would like to inform you that we are able to issue the appropriate Improvement Location Permit for the construction of your garage addition upon application. The permit will be issued based on a letter from Indiana Michigan Power, dated April 22, 1988.

I recall speaking to you sometime after the public hearing when I stated that the permits would be issued based on a letter from Indiana and Michigan Power; we received the letter and therefore assumed that you would be applying, at your convenience, for the appropriate permits. I spoke to Mrs. Diamond again on June 9th for the purpose of assuring her that the garage permit could be issued, she said she would pass the information along to you.

In conclusion, I would like to assure you that we stand ready to process your permit application, I also would like to say that your frustration with the process is understandable.

If you have questions, please contact me at 427-1140.

Sincerely,

Gary Baeten
Senior Planner
C.D. & P.

GB:dmg

cc: File



MEMORANDUM

TO: City Council Members

FROM: Greg Purcell, Director, Community Development and Planning

SUBJECT: River Greenway Ordinance (G-88-05-21)

DATE: June 13, 1988

Attached is an amendment to the Zoning Ordinance which would significantly revise the section establishing the River Greenway Overlay District. I have summarized the most important elements of the amendment below:

Definition of Boundaries: The existing ordinance does not clearly define the boundaries of the River Greenway district. Although CD&P quarter-section maps show the area 500' from the riverbank, this is in conflict with the common definition of the River Greenway used by the Parks Department which is 100'. The new language clearly states that the River Greenway District is 100' from the riverbank and uses the FEMA definition for the riverbank.

Creation of River Greenway Committee: The amendment creates a five-member "advisory" body to the Plan Commission to review development in the River Greenway District with the following composition:

- 2 members of the Plan Commission
- 2 members of the Board of Park Commissioners
- 1 citizen representing the River Greenway Consortium, Inc.
- 1 representative of the Maumee River Basin Commission

Two Tier Review Process: The ordinance creates a "simple" review process for projects that would not have a significant impact on the River Greenway, and a more "detailed" process for developments that may have a significant impact. Both processes are outlined below:

No Significant Impact: The application is submitted to the Plan Commission and forwarded to the River Greenway Committee for review. If the Committee determines the development would not significantly impact the River Greenway, for example the construction of a shed in the backyard of a homeowner, a finding of "no significant impact" is made and a recommendation made to the Plan Commission to authorize an Improvement Location Permit at the next business meeting. Upon concurrence by the Plan Commission, the petitioner can receive an Improvement Location Permit.

Development Plan Review: If the River Greenway Committee determines the development may have a "significant" impact on the River Greenway, a detailed site plan must be prepared by the petitioner. The Plan Commission would hold a public hearing on the petition and the comments received and plan are forwarded to the River Greenway Committee for evaluation and recommendation.

After receiving the recommendations of the River Greenway Committee, the Plan Commission can approve, modify with conditions, or deny the petition.

The primary purpose of this ordinance is to clarify some ambiguous elements in the current ordinance and to formally bring in three groups to the decision-making process who have a clear interest in the River Greenway, i.e. the Park Board, River Greenway Consortium, Inc., and the Maumee River Basin Commission. While bringing in the major interest groups for consultation, the ordinance also eliminates the need for expensive drawings and site plans when a property owner wants to construct something that will have no significant impact on the River Greenway.

I trust this summary will be helpful in understanding the ordinance amendment. Should you have any questions, please do not hesitate to contact me.

GP/sjh

FACT SHEET

G-88-05-21

BILL NUMBER

**Division of Community
Development & Planning****BRIEF TITLE**

River Greenway Ordinance

APPROVAL DEADLINE**REASON****DETAILS****Specific Location and/or Address**

Not Applicable

Reason for Project

This Ordinance provides for a systematic approach to review of developments that are proposed in the River Greenway.

Discussion (Including relationship to other Council actions)18 April 1988 - Public Hearing

See Attached Minutes of Meeting

25 April 1988 - Business Meeting

The amendment was deferred in order for the Plan Commission's attorney to look into the legal question raised by Yvonne Stam.

23 May 1988 - Business Meeting

Motion was made and seconded to return the ordinance to the Common Council with a DO PASS recommendation, motion carried.

Of the eight (8) members present seven (7) voted in favor of the motion one (1) did not vote.

POSITIONS**RECOMMENDATIONS****Sponsor**

City Plan Commission

Area Affected

City Wide

Other Areas

**Applicants/
Proponents****Applicant(s)**

City Department

Land Use Management - CD&P

Other

Opponents**Groups or Individuals****Basis of Opposition****Staff
Recommendation**☒ For☐ Against**Reason Against****Board or
Commission
Recommendation****By**☒ For☐ Against☐ No Action Taken☐ For with revisions to condition
(See Details column for condition)**CITY COUNCIL
ACTIONS
(For Council
use only)**☐ Pass☐ Other☐ Pass (as
amended)☐ Hold☐ Council Sub.☐ Do not pass

- c. Deletion of existing Section 33-53 thru 33-58, and replacement with new ordinance text for River Greenway Overlay District.

V.C. Seth, Director of Planning for CD&P, stated that there are three major changes in the ordinance. He stated one is in the area of procedures. The difference is that right now that should someone submit a request for approval in the Rivergreenway it is submitted directly to the Plan Commission. In the new procedure there is a creation of Rivergreenway Committee, which includes members of the Planning, members of the Park Commission and a member from the River Greenway Consortium Inc. This committee would receive the request first and act as an advisory committee to the Plan Commission. He stated the second change is the area included in the Rivergreenway. It is currently 500 feet on either side from the center of the river. He stated they felt it was too wide of an area and they are suggesting instead that it be 100 feet from the floodway mark. Mr. Seth explained the proposed RGO review and approvals. He stated that the applicant applies for approval and it goes to the Rivergreenway Committee, if it is not a substantial change it is given the required building permits, if it is a substantial change the Commission reviews it. He stated it goes through the Plan Commission public hearing and then it is reviewed by the Rivergreenway Committee. He stated

Minutes
City Plan Commission Public Hearing
18 April 1988

that this committee makes a recommendation to the Plan Commission before the Commission makes its final decision.

Yvonne Stam questioned whether the Rivergreenway Consortium Inc was a private or public organization.

Greg Purcell stated that it is a private non-profit organization.

Yvonne Stam stated that is what she thought it was. She stated she felt that they were delegating a public duty, a governmental function to someone that is essentially not an appropriate place to delegate it to. She stated she had no problem with the idea of the committee, but stated she did have a problem with saying that the Mayoral appointee has to be a member of some other organization, particularly when it is not a governmental function. She stated that we would be delegating governmental functions to a private organization. She stated that by saying that the fifth member of the committee must be from a private organization causes delegation problems.

Greg Purcell stated that he also requested that the Maumee River Basin Commission be added as well. He stated that their basic interest is to try to get all of the actors who have some interest in what happens within that riverbank area together to review private development plans.

Mrs. Stam stated she did not have a problem with the concept because in the end the Plan Commission will be the ones making the decision. She stated that the problem is the idea of designating a private body as the pool from which to draw a member, because if the Committee decides the Plan Commission does not need to consider a project it will go right for building permits. She stated that is where she had a problem with delegation.

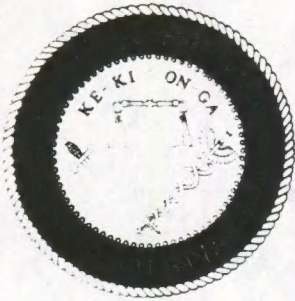
Mr. Purcell stated as he understood was that the Committee has two roles one is advisory to the Commission in whether or not there is a development plan prepared and forwarded to the Commission. He stated that Mrs. Stam problem was legally that the Plan Commission is giving the authority to this Committee to make decisions as to whether something is significant or not. He stated it is a legal question and he would defer the question to legal counsel.

David Wright stated he would look into the question, but he was

of the understanding that Linda Powell of the City Attorney's staff had been working on the Rivergreenway. He stated she may already have an answer. He stated if she does not he will resolve the question.

There was no one else present who wished to speak in favor of or in opposition to the proposed amendments.

ADJOURNMENT:



The City of Fort Wayne

LAND USE MANAGEMENT
Division of Community Development & Planning

3 June 1988

COMMUNICATIONS FROM THE CITY PLAN COMMISSION

The Common Council of the
City of Fort Wayne
City-County Building
One Main Street
Fort Wayne, IN 46802

Gentlemen and Mrs. Bradbury:

Attached hereto is the recommendation of the City Plan Commission on one (1) ordinance concerning the amendment of the Zoning Ordinance (General Ordinance No. G-06-80, amending Chapter 33 of the Municipal Code of the City of Fort Wayne, Indiana, 1946.) The proposed ordinance is designated as:

Bill No. G-88-05-21

Respectfully submitted,

CITY PLAN COMMISSION

Certified and signed this
3rd day of June 1988.

Robert Hutner
Secretary